

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

**CIVIL CONFERENCE
MINUTE ORDER**

BEFORE: A. KATHLEEN TOMLINSON
U.S. MAGISTRATE JUDGE

DATE: 7-25-2018
TIME: 3:16 p.m. (31 minutes)

Chmil v. County of Nassau, et al.
CV 17-5459 (JS) (AKT)

TYPE OF CONFERENCE: **DISCOVERY STATUS CONFERENCE**

APPEARANCES: Plaintiff Alexander R. Klein

Defendant Pablo A. Fernandez (Nassau County Defendants)

(Unidentified Employees of the Nassau County District Attorney's Office)
(Unidentified Officers of the Nassau County Police Department)

FTR: 3:16-3:47

SCHEDULING:

The Court has reserved time for a Settlement Conference in this case on September 6, 2018 at 2:00 p.m. No later than **two business** days before the September 6 settlement conference, each party must submit by fax (not by ECF) a one or two page *ex parte* statement of the client's settlement position. The fax number in Chambers is 631-712-5766. The statement must specify the terms on which the party is willing to settle the case, whether those terms are negotiable, and an explanation of that position. It is expected that counsel will explain how damages calculations have been made as well as the computation of any offer or counteroffer. These statements will be treated as confidential and will not be docketed or shared in any way. Therefore, the Court expects that the information will be a candid statement of the party's actual settlement position.

THE FOLLOWING RULINGS WERE MADE:

1. Plaintiff's counsel is directed to serve Defendants' counsel by August 1, 2018 with the additional HIPAA release discussed today. Defendants' counsel is directed to serve those HIPAA releases as soon as they are received from the plaintiff. If 60 days go by and defendants' counsel has not received the records, and has made at least one follow-up attempt to obtain the records without success, then defendants' counsel is directed to send the Court a short letter supplying the name of the provider and the provider's address. The Court will issue an immediate Order for counsel to serve on the provider.
2. By August 24, 2018, Plaintiff's counsel is to advise the Court in writing whether Plaintiff has been treated for emotional distress which Plaintiff is attributing to the underlying events in this case (and which plaintiff intends to introduce at trial). Counsel is further directed to notify the Court if Plaintiff has retained an expert for purposes of opining on the plaintiff's alleged emotional distress.
3. We talked briefly about Plaintiff's counsel potentially needed to update/amend his Rule 26(a) Initial Disclosures. Both sides have an ongoing obligation to continue to update their Initial Disclosures as discovery proceeds.

4. We spent some time discussing depositions. The parties were urged to serve subpoenas as quickly as possible upon any non-party witnesses that so we do not have a problem with the discovery deadline.
5. The parties are not certain whether they will use experts in the case. Nor have defendants decided whether they will conduct an IME or Rule 35 exam of the Plaintiff. I am putting in place a schedule for expert discovery based on this information. If the parties decide not to proceed with expert discovery, they must notify the Court in writing of that fact by October 31, 2018. Likewise, if counsel decide not to proceed with summary judgment motion practice, they must notify the Court in writing by October 31, 2018.

FINAL SCHEDULING ORDER:

- All fact depositions/discovery completed by: October 31, 2018
- Deadline to serve expert report(s) and all expert disclosures required under Rule 26 for any party utilizing an expert in its case-in-chief: December 6, 2018
- Deadline to serve rebuttal expert report(s) and expert disclosures: January 31, 2019
- All expert depositions must be completed by: February 20, 2019
- Moving party's Rule 56.1 Statement of Undisputed Facts must be served by: March 18, 2019
- Opposing party's Rule 56.1 Counterstatement must be served by: April 10, 2019
- Any letter request for a pre-motion conference to Judge Seybert for purposes of making a summary judgment motion must be filed by: April 25, 2019
- Proposed Joint Pre-Trial Order must be filed on ECF by: July 10, 2019
- Pre-Trial Conference will be held on: July 16, 2019 at 10 a.m.

SO ORDERED.

/s/ A. Kathleen Tomlinson
A. KATHLEEN TOMLINSON
U.S. Magistrate Judge